



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes BOARD OF ZONING APPEALS

*James A. Mills, Ward 3, Chairman*  
*J. K. Lowman, Ward 2, Vice Chairman*  
*Brad N. Leskoven, Ward 1*  
*David Hunter, Ward 4*  
*Ronald Clark, Ward 5*  
*Bobby Van Buren, Ward 6*  
*Justice Barber, Ward 7*

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Monday, August 29, 2016

6:00 PM

City Hall Council Chambers

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*Present: James Mills, J. K. Lowman, Brad N. Leskoven, David Hunter, Ronald Clark,  
Bobby Van Buren and Justice Barber*

*Staff:*  
*Rusty Roth, Planning & Zoning Manager*  
*Sarah Hegener, Associate City Attorney*  
*Ines Embler, Secretary to the Board*

### CALL TO ORDER:

*Chairman Mills called the August 29, 2016 meeting of the Board of Zoning Appeals to order at 6:00 PM.*

*Chairman Mills explained the rules and procedures used in conducting the public hearings.*

### MINUTES:

#### 20160834 July 25, 2016 Board of Zoning Appeals Meeting Minutes

#### **Review and Approval of the July 25, 2016 Board of Zoning Appeals Meeting Minutes.**

*Mr. Lowman made a motion, seconded by Mr. Hunter that the July 25, 2016 Board of Zoning Appeals meeting minutes be approved. The Motion carried 7-0-0.*

**A motion was made by Board member Lowman, seconded by Board member Hunter, that this Minutes be Approved and Finalized. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**VARIANCES:****20160237      V2016-10 [VARIANCE] BONG HONG**

**V2016-10 [VARIANCE] BONG HONG is requesting variances for property located in Land Lot 858, District 17, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia and being known as 2565 Delk Road. Variance to allow more than 50% of the windows containing signage account for more than 50% of the window face; variance to allow wall signage cover more than 15% and/or 5% of the wall face. Ward 6A.**

*A public meeting was held.*

*Mr. Hong and Mr. Hoeptner presented a request for a variance to allow more than 50% of the windows containing signage account for more than 50% of the window face; variance to allow wall signage cover more than 15% and/or 5% of the wall face.*

*There was no opposition to this variance.*

*Mr. Hoeptner approached the bench and provided the board members with a new set of plans complete with measurements and showing which windows would be removed.*

*Ms. Barber asked if he was planning to put black shade on the windows that the signage was being removed from and Mr. Hoeptner affirmed.*

*Ms. Barber and Mr. Van Buren asked questions pertaining to the measurements provided in the new package and Mr. Hoeptner explained satisfactorily.*

*The public hearing was closed.*

*A motion was made by Mr. Van Buren to approve this request in accordance to the Minks package that was provided at the meeting on the basis that it would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. It was seconded by Mr. Lowman. Mr. Leskoven opposed. The Motion carried 6-1-0.*

**A motion was made by Board member Van Buren, seconded by Board member Lowman, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.**

**Absent:     0**

**Vote For:    6**

**Vote Against: 1**

**20160495      V2016-30 [VARIANCE] BJF, JR., LLC**

**V2016-30 [VARIANCE] BJF, JR., LLC is requesting variances for property located in Land Lot 218, District 17, Parcel 0450, 2nd Section, Marietta, Cobb County, Georgia and being known as 541 & 561 Powder Springs Street. Variance to reduce the buffer from 30' to 10'; variance to disturb and replant**

**the buffer except in areas of adequate existing vegetation. Ward 1A.**

*A public meeting was held.*

*Mr. Adam Rozen with Sams, Larkin, Huff & Balli, LLP, presented a request for a variance to reduce the buffer from 30' to 10'; variance to disturb and replant the buffer except in areas of adequate existing vegetation.*

*There were five (5) in opposition to this variance, one (1) spoke.*

*Mr. Rozen approached the bench and handed out a packet of pictures to the board members.*

*Mr. Van Buren asked if the last picture in the packet was of the houses behind the property. Mr. Rozen stated that the last picture is on Lovejoy looking back through, which is a little closer to actually being behind Aquarama.*

*Mr. Leskoven and Mr. Hunter asked questions pertaining to the current fence and location of the proposed new fence. Mr. Rozen explained where the new eight (8) foot fence would be located and said that the portion of the fence that is on their property would remain if the City would permit it to be tied into the new fence, if not, then the whole fence would be put in.*

*Mr. David Vickers opposed. He expressed concern about reducing the buffer to ten (10) feet explaining that the current demographics of the neighborhood is age 80+ and that obviously, the demographics will change and a younger age demographic will eventually be the makeup of the area and a younger population would likely park cars there and disturb the area. He feels that this will discourage home ownership in the area. He asked the board members how they would feel if this was happening to their neighborhood. He feels that they should not have to come back in the future to fight this issue again and it should also not be up to staff to decide; it should be a public hearing. He feels that buffers are there to protect the community, not the property owner and doesn't feel that this owner has any special circumstance or hardship; he merely took down trees and now is asking for a variance.*

*Mr. Leskoven asked Mr. Vickers about the referenced reduction amount stating the issue is that no one can determine what buffer was there previous to the removal of the trees. Mr. Vickers explained and affirmed that he was referring to the code and not what was existing previously. He acknowledged that he does not know what buffer was there prior to it being cut down.*

*Mr. Hunter told Mr. Vickers that if the buffer remains at thirty (30) feet then he won't get the fence. Mr. Roth, City Staff, clarified that the regulations do require a minimum of six (6) feet fence be included along with the landscaping.*

*Mr. Rozen stated in his rebuttal that the intensity of the use is not changing at this time and it would be enforceable if it were to change. He said that in the historical photography the buffer shown was not thirty (30') feet.*

*Mr. Hunter asked if there were plans to put a dumpster back there and Mr. Rozen stated that the plan is for the use to stay how it is now. There are no plans to put a dumpster back there.*

*Mr. Hunter asked if the fence would be maintained and Mr. Rozen affirmed.*

*The public hearing was closed.*

*A motion was made by Mr. Leskoven to grant the application with the stipulations in full based on the August 8, 2016 letter of stipulation from Sams, Larkin, Huff & Balli, LLP, which includes the eight foot (8') privacy fence along the entire rear of the property and twenty foot (20') buffer of evergreens, two rows staggered, along the rear with ten foot (10') single row planted in front of the existing vegetation along 538 Lovejoy and that stipulation also includes the future redevelopment in stipulation #4, granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship. It was seconded by Mr. Van Buren. The Motion carried 7-0-0.*

**A motion was made by Board member Leskoven, seconded by Board member Van Buren, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**20160621 V2016-36 [VARIANCE] BLUE ONION, LLC**

**V2016-36 [VARIANCE] BLUE ONION, LLC is requesting variances for property located in Land Lot 660, District 17, Parcel 0170, 2nd Section, Marietta, Cobb County, Georgia and being known as 2017 Airport Industrial Park Drive. Variance to allow an automotive repair shop (including paint and body) adjacent to a single family residential district; variance to allow two automobile sales businesses on 1.79 acres; Variance to allow an additional automobile sales business within 50 feet of a property zoned for residential purposes; request to remove the stipulation from V2011-30 to allow for outdoor storage of cars. Ward 7A.**

*A public meeting was held.*

*Mr. Adam Rozen with Sams, Larkin, Huff & Balli, LLP, presented a request for a variance to allow an automotive repair shop (including paint and body) adjacent to a single family residential district; variance to allow two automobile sales businesses on 1.79 acres; variance to allow an additional automobile sales business within 50 feet of a property zoned for residential purposes; request to remove the stipulation from V2011 30 to allow for outdoor storage of cars.*

*There was no opposition to this variance.*

*Ms. Barber asked questions pertaining the signage and whether they plan to change the sign to include marketing information. Mr. Rozen explained that there are no proposed changes to the current sign; that this is a niche custom car business and that people know of him and come to him for his specialized work; there are no drive by customers.*

*Mr. Anthony Marzullo, the owner, approached the podium and explained that the property has two large buildings; he plans on leasing the second building and at that point the sign would change but only to include the lessee's business name and that no marketing would be included in the signage at any time.*

*Ms. Barber asked if he's spoken with any potential lessee's and the type of tenants that would like to lease that space. Mr. Marzullo explained that he does have a*

*potential lessee and that he is in a similar business as he, basically indoor internet sales.*

*Ms. Barber asked how much overflow of cars are parked outside and Mr. Marzullo stated that they do have some overflow, but usually no more than six (6) or seven (7) including employee vehicles. He reiterated that his business is not a typical car lot dealership like you see on Cobb Parkway, it's a much different type of environment.*

*Ms. Barber asked about the stipulation in the letter pertaining to the lighting and outdoor speakers and Mr. Marzullo said he would not need to install any additional outdoor lights and that they do not have outdoor speakers.*

*The public hearing was closed.*

*A motion was made by Ms. Barber to grant the application for the requested variances, 1, 2, 3 in full and modify stipulation #4 from V2011-30 that instead of removing the stipulation altogether, to allow no more than twenty (20) cars stored outdoors at any one time. Also add the stipulation that no outside lighting shall be installed that negatively impacts the adjacent property and no outdoor speaker shall be installed on the basis that exceptional or extraordinary circumstances or conditions are applicable to the development of the site that do not apply generally to sites in the same zoning district. It was seconded by Mr. Lowman. The Motion carried 7-0-0.*

**A motion was made by Board member Barber, seconded by Board member Lowman, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**20160763**

**V2016-41 [VARIANCE] LA ULTIMA TROMPETA**

**V2016-41 [VARIANCE] LA ULTIMA TROMPETA is requesting variances for property located in Land Lot 1214, District 16, Parcel 0160, 2nd Section, Marietta, Cobb County, Georgia and being known as 37 Moore Avenue (a.k.a 45 Moore Avenue). Variance to increase the allowable height of a freestanding sign from 10' to approximately 20'; variance to increase the allowable sign structure area from 50 s.f. to 116 s.f.; variance to increase the allowable sign area from 50 s.f. to 64 s.f. Ward 5A.**

*A public meeting was held.*

*Mr. Denis Jose Reyes, presented a request for a variance to increase the allowable height of a freestanding sign from 10' to approximately 20'; variance to increase the allowable sign structure area from 50 s.f. to 116 s.f.; variance to increase the allowable sign area from 50 s.f. to 64 s.f.*

*There was no opposition to this variance.*

*Mr. Clark asked if he is planning on completing the sign and cover the unfinished areas. Mr. Reyes said that he is willing to do what the board recommends.*

*Ms. Barber asked what the height of the wooden piece that is along the top was. Mr. Reyes said it's about one (1) foot.*

*The public hearing was closed.*

*A motion was made by Mr. Clark to grant the application with the stipulation that the sign be completed with both ends, the middle and bottom covered, on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Hunter. The Motion carried 7-0-0.*

**A motion was made by Board member Clark, seconded by Board member Hunter, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**20160764 V2016-42 [VARIANCE] BENTLEY COMMERCIAL PROPERTIES, LLC**

**V2016-42 [VARIANCE] BENTLEY COMMERCIAL PROPERTIES, LLC is requesting variances for property located in Land Lot 505, District 17, Parcel 0450, 2nd Section, Marietta, Cobb County, Georgia and being known as 344 Kathleen Drive. Variance to allow automobile sales within 50' of a residentially zoned property. Ward 7A.**

*A public meeting was held.*

*Ms. George Bentley, presented a request for a variance to allow automobile sales within 50' of a residentially zoned property.*

*There was no opposition to this variance.*

*Chairman Mills asked if he anticipated any objection from his neighbors. Mr. Bentley said that he does not think so as they are all his lessees.*

*The public hearing was closed.*

*A motion was made by Ms. Barber to grant the application for a variance to reduce the fifty foot (50') distance from the residentially zoned property down to a forty foot (40') distance, on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Van Buren. The Motion carried 7-0-0.*

**A motion was made by Board member Barber, seconded by Board member Van Buren, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**20160765 V2016-43 [VARIANCE] JEFFREY M. & JULIANN M. FINDLING**

**V2016-43 [VARIANCE] JEFFREY M. & JULIANN M. FINDLING is requesting a variance for property located in Land Lot 1220, District 16, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia and being known**

**as 252 McCord Street. Variance to reduce the side setback for an accessory structure from 10' to 3.' Ward 3A.**

*A public meeting was held.*

*Mr. Findling, presented a request for a variance to reduce the side setback for an accessory structure from 10' to 3.'*

*There was no opposition to this variance.*

*Ms. Barber asked if the email received from neighbor, Mr. Herbert, was his immediate neighbor. Mr. Findling approached the bench and showed board members on the map where Mr. Herbert's property is located, stating the back of the garage would abut their property.*

*Mr. Hunter asked if he was planning on building a three car garage. Mr. Findling said no, that he is building a two car garage, measuring about 25'x 25'; a standard size garage.*

*Mr. Van Buren asked if he will be widening the driveway and Mr. Findling stated that they are unable to widen the driveway because there are two huge old oak trees along the driveway and they do not want to disturb the trees.*

*The public hearing was closed.*

*A motion was made by Chairman Mills to grant the application on the basis that exceptional or extraordinary circumstances or conditions are applicable to the development of the site that do not apply generally to sites in the same zoning district. It was seconded by Mr. Lowman. The Motion carried 7-0-0.*

**A motion was made by Board member Mills, seconded by Board member Lowman, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**20160766**

**V2016-44 [VARIANCE] ROBERT BAITIS**

**V2016-44 [VARIANCE] ROBERT BAITIS is requesting a variance for property located in Land Lot 1087, District 16, Parcel 0640, 2nd Section, Marietta, Cobb County, Georgia and being known as 472 Campbell Hill Street. Variance to allow a detached garage contain an additional 260 s.f. Ward 4B.**

*A public meeting was held.*

*Mr. Baitis, presented a request for a variance to allow a detached garage contain an additional 260 s.f.*

*There was no opposition to this variance.*

*Mr. Lowman asked why he wants a larger garage than is intended. Mr. Baitis explained that his intent is to have a four car garage to accommodate the vehicles that they have.*

*The public hearing was closed.*

*A motion was made by Mr. Hunter to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Chairman Mills. The Motion carried 7-0-0.*

**A motion was made by Board member Hunter, seconded by Board member Mills, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**

**20160771 V2016-45 [VARIANCE] HOOVER FOODS, INC.**

**V2016-45 [VARIANCE] HOOVER FOODS, INC. is requesting a variance for property located in Land Lot 1231, District 16, Parcel 1320, 2nd Section, Marietta, Cobb County, Georgia and being known as 55 South Marietta Parkway. Variance to allow the use of metal siding on the front and side of a building facing a roadway. Ward 5A.**

*A public meeting was held.*

*Mr. Parks Huff, Esq. with Sams, Larkin, Huff & Balli, LLP, presented a request for a variance to allow the use of metal siding on the front and side of a building facing a roadway.*

*There was no opposition to this variance.*

*There were no questions from the board members.*

*The public hearing was closed.*

*A motion was made by Mr. Clark to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Lowman. The Motion carried 7-0-0.*

**A motion was made by Board member Clark, seconded by Board member Lowman, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.**

**Absent: 0**

**Vote For: 7**



**ADJOURNMENT:**

*The August 29, 2016 meeting of the Board of Zoning Appeals was adjourned at 7:50PM*

  
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JAMES (JIM) MILLS, CHAIRMAN

  
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INES EMBLER, SECRETARY

